

AT AN ADJOURNED MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTGOMERY, VIRGINIA, HELD ON THE 28<sup>th</sup> DAY OF FEBRUARY 2005, AT 7:15 P.M. IN THE BOARD CHAMBERS, MONTGOMERY COUNTY GOVERNMENT CENTER, 755 ROANOKE STREET, CHRISTIANSBURG, VIRGINIA:

PRESENT:	Gary D. Creed	-Chair
	Steve L. Spradlin	-Vice Chair
	Mary W. Biggs	-Supervisors
	Doug Marrs	
	Annette S. Perkins	
	B. Clayton Goodman, III	-County Administrator
	Martin M. McMahon	-County Attorney
	T.C. Powers	-Planning Director
	Robert C. Parker	-Public Information Officer
	Vickie L. Swinney	-Secretary, Board of Supervisors
ABSENT:	John A. Muffo	-Supervisors
	James D. Politis	

### **CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

The Chair called the meeting to order and the Pledge of Allegiance was recited.

### **PRESENTATION OF AWARD – MONTGOMERY COUNTY SHERIFF’S DEPARTMENT – RE-ACCREDITATION**

Ernie O’Boyle, Virginia Department of Criminal Justice Services, presented Sheriff Tommy Whitt with a Certificate of Re-accreditation on behalf of the Virginia Law Enforcement Professional Standards Commission (VLEPSC). An on-site visit assessment was conducted in November 2004 and the Sheriff’s Office complied with all 180 standards set by the VLEPSC. This is the first re-accreditation since the Sheriff’s Office was first accredited in 1999. Mr. O’Boyle indicated this is a high honor to receive. There are 400 Sheriff’s Offices in the state of Virginia and less than 50 are accredited.

### **PUBLIC ADDRESS**

There being no speakers, the public address session was closed.

## **DELEGATION**

### **Virginia Department of Transportation**

Richard Caywood, Salem District Administrator for the Virginia Department of Transportation, introduced himself to the Board. Mr. Caywood stated he would be available anytime and requested the Board of Supervisors feel free to contact him with any concerns or requests. He also updated the Board on the state budget and indicated that the General Assembly did approve additional monies for the Salem District for FY 05 to help pay the debt on past projects, such as the Smart Road and the new 3-A bypass. This will enable the Six-Year Road Plan for secondary roads to stay on target and be fully funded.

## **CONSENT AGENDA**

On a motion by Mary W. Biggs, seconded by Steve L. Spradlin and carried unanimously, the Consent Agenda dated February 28, 2005 was approved.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	John A. Muffo
Doug Marrs		James D. Politis
Steve L. Spradlin		
Annette S. Perkins		
Gary D. Creed		

### **A-FY-05-73**

#### **EMERGENCY SERVICES COORDINATOR COMMUNITY RESPONSE TEAM GRANT**

On a motion by Mary W. Biggs, seconded by Steve L. Spradlin and carried unanimously,

BE IT RESOLVED, By the Montgomery County Board of Supervisors that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2005, for the function and in the amount as follows:

111	Emergency Services Coordinator Grants	\$14,800
-----	---------------------------------------	----------

The source of the funds for the foregoing appropriation is as follows:

#### **Revenue Account**

02111-424401	State Grants	\$14,800
--------------	--------------	----------

Said resolution appropriates Emergency Services Grant funds.

**A-FY-05-74**  
**SCHOOL OPERATING FUND**  
**SUPPLEMENTAL APPROPRIATION**

On a motion by Mary W. Biggs, seconded by Steve L. Spradlin and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the School Operating Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2005, for the function and in the amount as follows:

09	School Operating Fund	
	561000 Instruction	\$677,720

The sources of funds for the foregoing appropriation is as follows:

Revenue Account:

09 424416	Project Graduation	\$150,000
09 433206	Gaps Education	161,683
09 433233	Comprehensive School Reform	225,733
09 433290	Other Federal-Calculator Grant	33,627
09 424290	Mentor Teacher Grants	57,753
09 433211	Medicaid Reimbursement - Special Ed	<u>48,924</u>
		\$677,720

Said resolution appropriates additional funds for the School Operating Fund.

**A-FY-05-75**  
**GENERAL SERVICES**  
**TRANSFER FROM PARKS AND RECREATION**

On a motion by Mary W. Biggs, seconded by Steve L. Spradlin and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that a transfer of appropriation is hereby authorized, as follows:

**FROM:**

700	Parks and Recreation	(\$32,962)
-----	----------------------	------------

**TO:**

400	General Services	\$32,962
-----	------------------	----------

Said resolution transfers appropriated funds from Parks and Recreation Department to General Services Department to transfer a maintenance position.

**A-FY-05-76**  
**SHERIFF**  
**GRANT - PROJECT LIFESAVER**

On a motion by Mary W. Biggs, seconded by Steve L. Spradlin and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2005, for the function and in the amount as follows:

321	Sheriff Grants	\$175
-----	----------------	-------

The source of the funds for the foregoing appropriation is as follows:

Revenue Account

424401	State Grants	\$175
--------	--------------	-------

Said resolution appropriates monies for Project Lifesaver.

**A-FY-05-77**  
**BOARD OF SUPERVISORS**  
**TRANSFER FROM GENERAL CONTINGENCIES**

On a motion by Mary W. Biggs, seconded by Steve L. Spradlin and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that a transfer of appropriation is hereby authorized, as follows:

**FROM**

950	General Contingencies	(\$25,000)
-----	-----------------------	------------

**TO**

100	Board of Supervisors	\$25,000
-----	----------------------	----------

Said resolution transfers funds from General Contingencies to the Board of Supervisors Division to cover the costs of professional services for Board projects.

**R-FY-05-156  
FINAL PLAT  
CALLAWAY HILLS SUBDIVISION**

On a motion by Mary W. Biggs, seconded by Steve L. Spradlin and carried unanimously,

WHEREAS, Callaway Hills Subdivision consist of 6 lots located off Childress Road (SR 693) and has been found to meet the requirements of the Montgomery County Code Chapter 8, Article IV (Subdivision Ordinance); and

WHEREAS, The Montgomery County Code, Section 8-156 provides that a subdivider shall make adequate provision for storm and floodwater runoff and that if a subdivision involves new streets, the Virginia Department of Transportation shall determine that adequate provision for runoff will be taken; and

WHEREAS, Both the County Engineer and the Planning Commission recommend a stormwater detention facility designed to hold the 10-year post-development storm and release at the 1-year pre-development storm to satisfy the intent of Virginia Department of Transportation requirements; and

WHEREAS, The Virginia Department of Transportation requires that Montgomery County assume maintenance responsibility and liability that might arise from detention facilities in subdivisions; and

WHEREAS, The Montgomery County Code, Section 8-157 provides for approval by the County of stormwater detention facilities conditioned upon agreement being entered into by the County and a homeowners association whereby the association assumes all liability for the maintenance and operation of the stormwater detention facilities; and

WHEREAS, The developer of Callaway Hills Subdivision has agreed that said responsibility shall be assumed by the homeowners association.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia does hereby approve the Final Plat of Callaway Hills Subdivision (Gay and Keese Inc. Job No. 1150.5 dated 01/14/05), Riner Magisterial District, including a stormwater detention facility (1) designed to hold the 10-year post-development storm and release at the 1-year pre-development rate and (2) the responsibility for maintenance of which the Virginia Department of Transportation is relieved by the Board of Supervisors, but, by agreement, the responsibility for such maintenance shall be assumed by the homeowners association.

FURTHER, The Chairman is hereby authorized to sign said plat for recordation.

## **NEW BUSINESS**

### **R-FY-05-157 RESOLUTION AUTHORIZING THE SUBMITTAL OF A GRANT APPLICATION GREENWAYS AND PATHWAYS**

On a motion by Mary W. Biggs, seconded by Steve L. Spradlin and carried unanimously,

WHEREAS, The Virginia Department of Transportation has initiated a two-year pilot program to assist localities with planning of alternative transportation routes such as greenways and pathways; and

WHEREAS, Montgomery County's 2025 Comprehensive Plan recognizes the six villages of Belview, Elliston/Lafayette, Plum Creek, Price's Fork Riner and Shawsville as being separate and distinct from each other and from nearby towns, serving as focal points for surrounding rural areas, and providing opportunities to accommodate new residential and employment uses while retaining their vitality and historic character; and

WHEREAS, The County's Planning Department and Parks and Recreation Department are working together to incorporate greenway and pathways planning and design within the village planning process; and

WHEREAS, The benefits of this plan will be to link local resources within the villages together by pathway thus reducing the amount of vehicular traffic and commuter trips to and from neighborhoods, and allowing for higher density and more efficient land use by reducing auto-oriented suburbanization in the County; and

WHEREAS, These grant funds will allow for the detailed conceptual design of alternative transportation routes within the village areas as well as linking villages to each other; and

WHEREAS, The total amount of the project cost is estimated at \$103,040, of which \$72,000 will be grant funding and \$31,040 being an in-kind match from the County.

NOW, THEREFORE, BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby authorizes the submission of an application for \$72,000 to the Virginia Department of Transportation for Alternative Transportation Grant funds.

FURTHER, BE IT RESOLVED, The County Administrator, B. Clayton Goodman, III is hereby authorized to sign and submit appropriate documents for the submittal of this Virginia Department of Transportation Alternative Transportation Grant.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Doug Marrs	None	James D. Politis
Steve L. Spradlin		John A. Muffo
Annette S. Perkins		
Mary W. Biggs		
Gary D. Creed		

**R-FY-05-158**  
**RESOLUTION TO AWARD CONTRACT**  
**FOR ACQUISITION OF TOPOGRAPHIC CONTOUR MAP**  
**AND UPDATE OF DIGITAL AERIAL PHOTOS**

On a motion by Doug Marrs, seconded by Mary W. Biggs and carried unanimously,

WHEREAS, Montgomery County's Planning/GIS Department has initiated a project to create a 2 and 4-foot topographic contour map of Montgomery County and to update our digital aerial photos in the unincorporated urbanized areas which is an integral part of the GIS and Land Development Office implementation; and

WHEREAS, The contour map and digital aerial photos will significantly help us move forward with delineation of flood plains and revision of our flood maps last studied and published in 1978; and

WHEREAS, The contour map and digital aerial photos will assist our planning, economic development, engineering of county and school facilities, public utilities and emergency management functions.

NOW, THEREFORE, BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby authorizes the County Administrator to execute a contract with VARGIS for the acquisition of topographic contour map and update of digital aerial photos in the amount of \$127,400.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Steve L. Spradlin	None	James D. Politis
Annette S. Perkins		John A. Muffo
Mary W. Biggs		
Doug Marrs		
Gary D. Creed		

**R-FY-05-159**  
**RESOLUTION AUTHORIZING THE SUBMITTAL**  
**OF AN APPLICATION FOR REGIONAL JAIL REIMBURSEMENT**  
**FUNDING TO THE COMMONWEALTH OF VIRGINIA,**  
**BOARD OF CORRECTIONS**

On a motion by Mary W. Biggs, seconded by Doug Marrs and carried unanimously,

WHEREAS, Montgomery County, Roanoke County, Franklin County, and the City of Salem have determined that a need exists to construct additional jail space to supplement their current jail facilities; and

WHEREAS, These localities have contracted with Powell Consulting Services to prepare a Community Based Corrections Plan and with Hayes, Seay, Mattern & Mattern to develop a Planning Study as required by the Commonwealth of Virginia, Board of Corrections, Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities; and

WHEREAS, These four localities have requested a waiver from the moratorium so that the regional jail plan may be submitted to the Department of Corrections prior to March 1, 2005 in accordance with §53.1-82.3 of the Code of Virginia (1950) as amended, and be considered by the Board of Corrections for recommendation to the Governor to be included in the 2006 budget for appropriation by the General Assembly; and

WHEREAS, These four localities intend to negotiate a cooperative agreement and to form an authority pursuant to §53.1-95.2 of the Code of Virginia (1950) as amended, to construct and operate said regional jail on behalf of the four localities; and

WHEREAS, The proposed authority (or the localities) shall be eligible for reimbursement of up to fifty percent (50%) of eligible project costs of the regional facility pursuant to §53.1-81 of the Code of Virginia (1950) as amended.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia,

1. That it hereby supports the submittal of an application by Montgomery County, Roanoke County, Franklin County, and the City of Salem for the construction, operation, and reimbursement of a regional jail to serve the correctional needs of these localities, and requests favorable consideration of this application by the Commonwealth of Virginia, Board of Corrections.
2. That it requests reimbursement from the Board of Corrections and the Commonwealth of Virginia of 50% of the eligible project costs for the proposed regional jail as provided in the Planning Study, pursuant to §53.1-81 of the Code of Virginia (1950) as amended.



3. That it hereby authorizes the County Administrator, or his designee, to execute such documents and to take such actions as may be necessary to accomplish the purpose of this Resolution.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Annette S. Perkins	None	James D. Politis
Mary W. Biggs		John A. Muffo
Doug Marrs		
Steve L. Spradlin		
Gary D. Creed		

**R-FY-05-160**  
**REFINANCING OF BONDS**  
**SERIES 1999B LEASE REVENUE BONDS**  
**SERIES 1999C LEASE REVENUE BONDS**  
**SERIES 2000B LEASE REVENUE BONDS**  
**SERIES 2000C LEASE REVENUE BONDS**  
**SERIES 2001 LEASE REVENUE BONDS**

On a motion by Mary W. Biggs, seconded by Annette S. Perkins and carried unanimously,

**WHEREAS**, The Board of Supervisors of Montgomery County, Virginia (**the “Board of Supervisors”**) has been advised by Davenport & Company LLC (**the “Underwriter”**) that due to current market conditions in the municipal bond financial marketplace, significant cash savings could be realized by Montgomery County, Virginia (**the “County”**) by refunding all or a portion of the following; (i) from the Series 1999B Lease Revenue Bonds originally issued in the amount of \$11,680,000 by the Industrial Development Authority of Montgomery County, Virginia (**the “Authority”**) the bonds maturing in the years 2010 through 2012, 2019 and 2021 (**the “1999B Refunded Bonds”**); (ii) from the Series 1999C Lease Revenue Bonds originally issued in the amount of \$9,695,000 by the Authority the bonds maturing in the years 2010 through 2012, and 2019 (**the “1999C Refunded Bonds”**); (iii) from the Series 2000B Lease Revenue Bonds originally issued in the amount of \$16,805,000 by the Authority the bonds maturing in the years 2012, 2017, and 2022 (**the “2000B Refunded Bonds”**); (iv) from the Series 2000C Lease Revenue Bonds originally issued in the amount of \$11,550,000 by the Authority the bonds maturing in the years 2012, 2017, and 2022 (**the “2000C Refunded Bonds”**); (v) from the Series 2001 Lease Revenue Bonds originally issued in the amount of \$16,995,000 by the Authority the bonds maturing in the years 2015, 2018, 2019 2020 and 2023 (**the “2001 Refunded Bonds”**) (**together, the 1999B Refunded Bonds, the 1999C Refunded Bonds, the 2000B Refunded Bonds, the 2000C Refunded Bonds and the 2001 Refunded Bonds are hereinafter referred to as the “Refunded Bonds”**); and

**WHEREAS,** The County Administrator, in collaboration with the Underwriter, has recommended that it may be in the best interest of the County to purchase a municipal bond insurance policy to insure payment of principal of and interest on such lease revenue refunding bonds if the cost of municipal bond insurance results in an overall interest cost savings to the County; and

**WHEREAS,** The Board of Supervisors will request the Authority to issue, offer and sell its (i) lease revenue refunding bonds in an amount up to \$50,000,000 to refund the Refunded Bonds **(the “Bonds”)** and the Bonds are to consist of Series A Bonds **(the “Series A Bonds”)**, Series B Bonds **(the “Series B Bonds”)** and Series C Bonds **(the “Series C Bonds”)**; and

**WHEREAS,** There has been presented at this meeting a draft of the Preliminary Official Statement **(the “Preliminary Official Statement”)** for the offering and sale of the Bonds; and

**WHEREAS,** Issuance of the Bonds by the Authority would not create debt of the County for purposes of the Virginia Constitution.

**NOW, THEREFORE, BE IT RESOLVED, BY THE BOARD OF SUPERVISORS OF MONTGOMERY COUNTY, VIRGINIA:**

1. The following plan for refunding the Refunded Bonds as described in the preambles above is hereby approved. The Authority will be requested to issue the Bonds in the maximum amount of up to \$50,000,000 and to use the proceeds therefrom to refund the Refunded Bonds and to pay costs of issuing the bonds. The proceeds from the Series A Bonds will be used to refund the 1999B Refunded Bonds and the 1999C Refunded Bonds. The proceeds from the Series B Bonds will be used to refund the 2000B Refunded Bonds and 2000C Refunded Bonds. The proceeds from the Series C Bonds will be used to refund the 2001 Refunded Bonds. The Projects (as described therein) will be re-leased to the Authority under Amended Ground Leases **(the “Amended Ground Leases”)**, and the Authority will re-lease the Projects to the County pursuant to Amended Financing Leases **(the “Amended Financing Leases”)**. The Authority will also enter into Supplemental Indentures of Trust **(the “Supplemental Indentures”)** with a corporate trustee **(the “Trustee”)**, pursuant to which the Bonds will be issued, which Supplemental Indentures are to be acknowledged and consented to by the County. The Authority will also enter into Amended Assignments of Rents and Leases **(the “Amended Assignment Agreements”)** whereby the Authority’s rights under the Amended Financing Lease will be assigned to the Trustee, which Amended Assignment Agreements are to be acknowledged and consented to by the County. The Authority will be requested to lease the Projects to the County for the term of the Bonds at rents sufficient to pay interest and principal due on the Bonds, all pursuant to the Amended Financing Leases. The Authority, the County and the School Board will also enter into Amended Option Agreements **(the “Amended Option Agreements”)** providing the County and the School Board with the option to purchase the Projects, as appropriate. The obligation of the Authority to pay principal and interest on the Bonds will be limited to rent

payments received from the County. The obligation of the County to pay rent will be subject to the Board of Supervisors making annual appropriations for such purpose. The Bonds will be secured by assignments of the Amended Financing Leases to the Trustee for the benefit of the bondholders. If the County exercises its right not to appropriate money for rent payments, the Trustee or the holder of the Bonds may terminate the Amended Financing Leases or otherwise take possession of the Projects, subject to the terms of the Amended Financing Leases, the Amended Assignment Agreements, the Amended Ground Leases, and the Supplemental Indentures. The Authority, the County and the Underwriter (as defined below) will enter into Bond Purchase Agreements (**the “Bond Purchase Agreements”**) for the purchase of the Bonds and Continuing Disclosure Agreements (**the “Continuing Disclosure Agreements”**) for the purpose of assuring compliance with continuing disclosure obligations under Rule 15c2-12. The Authority will also enter into Escrow Agreements (**the “Escrow Agreements”**) with an escrow agent, to be determined, wherein the proceeds from the Bonds will be used to refund the Refunded Bonds, which is to be acknowledged and approved by the County. The issuance of the Bonds, maturing, whether in serial or term form, not later than the average weighted life of the Refunded Bonds at a per annum interest which results in present value savings of not less than 3% as determined by the County Administrator or the Chairman is hereby approved.

2. The Board of Supervisors has selected Sands, Anderson, Marks & Miller as Bond Counsel, and in connection therewith, Davenport & Company LLC as the Underwriter for the purchase of the Bonds, and the Authority is hereby requested to designate the Underwriter and Bond Counsel as such.
3. The Chairman or Vice Chairman of the Board of Supervisors, either of whom may act, is hereby authorized and directed to execute and deliver the Amended Ground Leases, the Amended Financing Leases, the Supplemental Indentures, the Amended Assignment Agreements, the Amended Option Agreements, the Escrow Agreements, the Continuing Disclosure Agreements and the Bond Purchase Agreements for the purchase of the Bonds by the Underwriter along with Escrow Agreements and subscriptions for U.S. Treasuries, State and Local Government Series (**SLGS**) for the advance refunding of the Refunded Bonds (**collectively, such documents to be hereinafter referred to as the “Documents”**) and related instruments thereto, including but not limited to municipal bond insurance, surety and investment agreements. The documents shall be in substantially the forms submitted to this meeting, which are hereby approved, with such completions, omissions, insertions and changes as may be approved by the officer executing them, his execution to constitute conclusive evidence of his approval of any such completions, omission, insertions and changes.
4. The Chairman or Vice-Chairman of the Board of Supervisors, either of whom may act, is hereby authorized and directed to acknowledge and consent to the provisions of the Documents and any other instruments executed by the County in

connection with assignments of the Amended Financing Leases for the purpose of securing the Bonds, including but not limited to designating and confirming the final interest rates, maturities, redemption provisions and other terms of the Bonds and executing and delivering any agreements relating to the obtaining of municipal bond insurance to secure the Bonds.

5. The Projects are hereby declared to be essential to the efficient operation of the County, and the Board of Supervisors anticipates that the Projects will continue to be essential to the operation of the County during the term of the Amended Financing Leases. The Board of Supervisors, while recognizing that it is not empowered to make any binding commitment to make appropriations beyond the current fiscal year, hereby states its intent to make annual appropriations in future fiscal years in amounts sufficient to make all payments under the Amended Financing Leases and hereby recommends that future Boards of Supervisors do likewise during the term of the Amended Financing Leases.
6. The Chairman or Vice-Chairman of the Board of Supervisors, the County Administrator, County Attorney, the County Treasurer and all other officers of the County are hereby authorized and directed to work with representatives of the Authority, the County Attorney, the Authority Counsel, Bond Counsel, and the Underwriter to perform all services and prepare all documentation necessary to bring the Bonds to market, including without limitation, final forms of the Documents and a preliminary and final official statement describing the Bonds and the Projects.
7. The County covenants that it shall not take or omit to take any action the taking or omission of which will cause the Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, including regulations issued pursuant thereto (**the “Code”**), or otherwise cause interest on the Bonds to be includable in the gross income for Federal income tax purposes of the registered owners thereof under existing law. Without limiting the generality of the foregoing, the County shall comply with any provision of law that may require the County at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds of the Bonds.
8. The County covenants that it shall not permit the proceeds of the Bonds to be used in any manner that would result in (a) 10% or more of the proceeds of the Bonds being used in a trade or business carried on by any person other than a governmental unit, as provided in Section 141(b) of the Code, provided that no more than 5% of such proceeds may be used in a trade or business unrelated to the County’s use of the Projects, (b) 5% or more of such proceeds being used with respect to any “output facility” (other than a facility for the furnishing of water), within the meaning of Section 141(b)(4) of the Code, or (c) 5% or more of such proceeds being used directly or indirectly to make or finance loans to any persons other than a governmental unit, as provided in Section 141(c) of the Code; provided, however, that if the County receives an opinion of nationally

recognized bond counsel that any such covenants need not be complied with to prevent the interest on the Bonds from being includable in the gross income for Federal income tax purposes of the registered owners thereof under existing law, the County need not comply with such covenants.

9. The Board of Supervisors hereby consents to Sands, Anderson, Marks & Miller serving as Bond Counsel and Underwriter's Counsel and recommends that such firm be appointed by the Authority as such.
10. All other acts of the Chairman or Vice-Chairman of the Board of Supervisors and other officers of the County that are in conformity with the purposes and intent of this resolution and in furtherance of the issuance and sale of the Bonds and refunding of the Refunded Bonds, are hereby approved and ratified.
11. Any authorization herein to execute a document shall include authorization to deliver it to the other parties thereto and to record such document where appropriate.
12. The County hereby agrees, to the extent permitted by law, to indemnify, defend and save harmless the Authority, its officers, directors, employees and agents from and against all liabilities, obligations, claims, damages, penalties, fines, losses, costs and expenses in any way connected with the County, the issuance of the Bonds or the refunding of the Refunded Bonds.
13. The distribution of the Preliminary Official Statement and a final Official Statement, for the offering of the Bonds, is hereby authorized. The authorization and approval of the Preliminary Official Statement is deemed "final" for purposes of complying with Rule 15c2-12 of the Securities Exchange Act of 1934, as amended, and the County is understood and agreed to be the sole "obligated person" under such Rule.
14. The County represents and affirms to the Authority that no representations of any kind as to the Projects, the Refunded Bonds or the ability to repay the Bonds has been made by the Authority.
15. This resolution shall take effect immediately.

PASSED AND ADOPTED this 28<sup>TH</sup> day of February, 2005.

The Resolution set forth above was adopted by a majority of the Board of Supervisors in an Open Meeting, during a regular meeting of the Board of Supervisors of the County of Montgomery, Virginia in which a quorum was present at all times, by the following votes:

AYES:

Mary W. Biggs  
Doug Marrs  
Steve L. Spradlin  
Annette S. Perkins  
Gary D. Creed

NAYS:

None

ABSTENTIONS:

None

ABSENT:

John A. Muffo  
James D. Politis

**R-FY-05-161  
RESOLUTION ACCEPTING THE  
CONVEYANCE BY GIFT OF  
TAX PARCEL 90(A) 29E TO  
THE COUNTY OF MONTGOMERY**

On a motion by Mary W. Biggs, seconded by Doug Marrs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia that the Board of Supervisors hereby approves and accepts the conveyance by Gift of Tax Parcel No. 90 (A) 29E from Kenneth S. Bowling, Richard P. Gordan, and Jack W. Bowling, Grantors.

BE IT FURTHER RESOLVED, That the Board of Supervisors hereby authorizes Gary D. Creed, Chairman, to sign the Deed of Gift as evidence of the Board's acceptance of the property.

The vote on the foregoing resolution was as follows:

AYE

Mary W. Biggs  
Doug Marrs  
Steve L. Spradlin  
Annette S. Perkins  
Gary D. Creed

NAY

None

ABSENT

James D. Politis  
John A. Muffo

**R-FY-05-162**  
**RESOLUTION OF APPRECIATION**  
**PARKS AND RECREATION COMMISSION**  
**DARLENE OLIVER**

On a motion by Steve L. Spradlin, seconded by Mary W. Biggs and carried unanimously,

**WHEREAS, Darlene Oliver** faithfully served as a member of the Parks and Recreation Commission from April 2002 to December 2004; and

**WHEREAS,** The County recognizes the impartial and dedicated service that **Darlene Oliver** has rendered the citizens of Montgomery.

**NOW, THEREFORE, BE IT RESOLVED,** The Board of Supervisors of Montgomery County, Virginia, on behalf of the entire citizenship, extends a unanimous vote of appreciation to **Darlene Oliver** for her outstanding public service.

**BE IT FURTHER RESOLVED,** That the original of this resolution be presented *to Darlene Oliver* and that a copy be a part of the officials minutes of Montgomery County.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	James D. Politis
Doug Marrs		John A. Muffo
Steve L. Spradlin		
Annette S. Perkins		
Gary D. Creed		

**INTO WORK SESSION**

BE IT RESOLVED, The Board of Supervisors hereby enters into Work Session for the purpose of discussing the following:

1. New River Valley Development Corporation
2. Montgomery County Web Page

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Doug Marrs	None	John A. Muffo
Steve L. Spradlin		James D. Politis
Annette S. Perkins		
Mary W. Biggs		
Gary D. Creed		

### **New River Valley Development Corporation**

Jim Rakes, Wayne Carpenter, and Wayne Elliott , NRVDC, presented a report on the history of the NRVDC. They provided information regarding their request for a loan totaling \$200,000 from participating jurisdictions, which include the Counties of Montgomery, Floyd, Giles and Pulaski, the City of Radford, the Town of Blacksburg, Town of Christiansburg, and the Town of Pulaski. This loan is needed to help offset an operational shortfall for FY 2004-2005. Montgomery County's share of the loan would be \$28,916 for FY 2005. They also asked participating jurisdictions to consider granting a second loan in the amount of \$200,000 in FY 2005-2006 to cover operational costs as needed. Montgomery County's share would be \$27,759 for FY 2006.

### **Montgomery County Web Page**

Robert Parker, Montgomery County Public Information Officer, and Nancy Brauer, Web and Design Manager, presented a proposed redesign of the County's web site home page. They are also working on redesigning each departmental web page.

### **OUT OF WORK SESSION**

BE IT RESOLVED, The Board of Supervisors ends their Work Session to return to Regular Session.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Steve L. Spradlin	None	John A. Muffo
Annette S. Perkins		James D. Politis
Mary W. Biggs		
Doug Marrs		
Gary D. Creed		

### **R-FY-05-163 RESOLUTION AUTHORIZING STAFF TO PROCEED WITH THE NEW DESIGN FOR THE COUNTY'S WEB PAGE**

On a motion by Mary W. Biggs, seconded by Annette S. Perkins and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of the County of Montgomery, Virginia hereby authorizes the County Administrator to proceed with the new design for Montgomery County's web page.



The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	James D. Politis
Doug Marrs		John A. Muffo
Steve L. Spradlin		
Annette S. Perkins		
Gary D. Creed		

## **BOARD MEMBERS REPORTS**

**Supervisor Biggs** School Board Meeting - The School Board is developing a Governor's School which will accommodate sixteen students. They are proposing four students per high school. Supervisor Biggs also provided a copy of the 2004 School Enrollment Projections and asked staff to distribute copies to the Board members.

Library Board The Library has drafted a proposal for a Mini-Branch Public Library in the Virginia Tech Corporate Research Center. Supervisor Biggs submitted the proposal to be distributed to the Board members.

Performance review of the Management Team was also discussed. A copy of the timeline for the performance review process was distributed to the Board of Supervisors.

Virginia Association of Counties (VACo) – Supervisor Biggs reported she will be serving on the VACo Education Steering Committee as Chair for 2005 and will also serve on the Resolutions Committee.

Take Back the Night Rally Supervisor Biggs reported the annual "Take Back the Night" Rally is scheduled for March 31, 2005 at Virginia Tech. She requested a proclamation be included on the next agenda to recognize this event.

Meeting with Local Legislators Supervisor Biggs asked if the Board members were interested in scheduling a follow-up meeting with the County's legislators to discuss actions and decisions from the General Assembly session. All Board members agreed and decided a meeting should be scheduled after the Governor's veto session.

**Supervisor Perkins** Planning District Commission discussed submitting a grant application for the possibility of connecting bikeways and greenways in the region. They also discussed transportation needs and the need for mass transit.

Virginia Association of Counties – Supervisor Perkins will be serving on the VACo Transportation Steering Committee and the Conference and Planning Committee for 2005.

Special Use Permit Request – Biosolids Disposal Site on Mud Pike Road Supervisor Perkins received several calls in opposition to the proposed biosolids disposal site on Mud Pike Road. She requested more information about this request. The County Administrator explained that this request is before the Planning Commission and their public hearing on this request is scheduled for Wednesday, March 9, 2005. The Board of Supervisors public hearing on this request is scheduled for March 28, 2005. He stated he would forward the request to the Board members.

New Montgomery County Public School Superintendent The School Board announced that Tiffany Anderson has been selected as the new school superintendent and will start April 4, 2005. Supervisor Perkins suggested that a joint meeting with the School Board be scheduled in order to meet Mrs. Anderson.

Supervisor Marrs asked the status of Montgomery County's request to set the maximum speed limit on non-paved roads at 35 m.p.h. The County Administrator reported that the General Assembly did approve Montgomery County's request and added Montgomery County to the list of counties where the maximum speed limit shall be 35 m.p.h. A copy of the adopted house bill will be forwarded to the Board members.

Supervisor Creed reported that the Planning Department and the Parks & Recreation Department have been working together to incorporate greenway and pathways planning and design within the village planning process. The proposed looptrail is the beginning stages of this process. Supervisor Creed stated this is just the start of a long range plan for connecting trails for Montgomery County.

### **INTO CLOSED MEETING**

On a motion by Annette S. Perkins, seconded by Doug Marrs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors hereby enters into Closed Meeting for the purpose of discussing the following:

- Section 2.2-3711      (1)      Discussion , Consideration or Interviews of Prospective Candidates for Employment; Assignment, Appointment, Promotion, Performance, Demotion, Salaries, Disciplining or Resignation of Specific Officers, Appointees or Employees of Any Public Body
1. Industrial Development Authority
  2. Planning Commission

- (5) Discussion or Consideration of the Acquisition of Real Property for Public Purpose, or of the Disposition of Publicly Held Real Property, Where Discussion in an Open Meeting Would Adversely Affect the Bargaining Position or Negotiation Strategy of the Public Body

1. Elliston/Lafayette Industrial Park

- (3) Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business=or industry=s interest in locating or expanding its facilities in the community.

1. Old Blacksburg Middle School Property

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	John A. Muffo
Doug Marrs		James D. Politis
Steve L. Spradlin		
Annette S. Perkins		
Gary D. Creed		

### **OUT OF CLOSED MEETING**

On motion by Annette S. Perkins, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors ends their Closed Meeting to return to Regular Session.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	John A. Muffo
Doug Marrs		James D. Politis
Steve L. Spradlin		
Annette S. Perkins		
Gary D. Creed		

## **CERTIFICATION OF CLOSED MEETING**

On a motion by Mary W. Biggs, seconded by Annette S. Perkins and carried unanimously,

WHEREAS, The Board of Supervisors of Montgomery County has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such Closed Meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion conveying the closed meeting were heard, discussed or considered by the Board.

### **VOTE**

#### **AYES**

Mary W. Biggs  
Doug Marrs  
Steve L. Spradlin  
Annette S. Perkins  
Gary D. Creed

#### **NAYS**

None

#### **ABSENT DURING VOTE**

John A. Muffo  
James D. Politis

#### **ABSENT DURING MEETING**

John A. Muffo  
James D. Politis

## APPOINTMENTS

### **R-FY-05-164 PLANNING COMMISSION APPOINTMENT**

On a motion by Annette S. Perkins, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby appoints **Francis R. Lau** to the Montgomery County Planning Commission effective March 1, 2005 and expiring February 28, 2009.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	James D. Politis
Doug Marrs		John A. Muffo
Steve L. Spradlin		
Annette S. Perkins		
Gary D. Creed		

### **R-FY-05-165 PLANNING COMMISSION APPOINTMENT**

On a motion by Annette S. Perkins, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby appoints **Steven C. Cochran** to the Montgomery County Planning Commission effective March 1, 2005 and expiring February 28, 2009.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	James D. Politis
Doug Marrs		John A. Muffo
Steve L. Spradlin		
Annette S. Perkins		
Gary D. Creed		

**R-FY-05-166**  
**PLANNING COMMISSION**  
**APPOINTMENT**

On a motion by Annette S. Perkins, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby appoints **Walt Haynes** to the Montgomery County Planning Commission effective March 1, 2005 and expiring February 28, 2009.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	James D. Politis
Doug Marrs		John A. Muffo
Steve L. Spradlin		
Annette S. Perkins		
Gary D. Creed		

**ADJOURNMENT**

On a motion by Mary W. Biggs, seconded by Annette S. Perkins and carried unanimously, the Board adjourned to Monday, March 14, 2005 at 7:15 p.m.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Mary W. Biggs	None	John A. Muffo
Doug Marrs		James D. Politis
Steve L. Spradlin		
Annette S. Perkins		
Gary D. Creed		

The meeting adjourned at 10:40 p.m.

APPROVED: _____	ATTEST: _____
Gary D. Creed Chair	B. Clayton Goodman, III County Administrator